

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

TUESDAY, THE 18TH DECEMBER 2007 / 27TH AGRAHAYANA 1929

WP(C).No. 5346 of 2005(J)

PETITIONER:

**K.A. BALAN, (RETIRED PRINCIPAL,
EXCISE TRAINING COLLEGE, THRISSUR), ADVOCATE
DIVAKAR HOUSE (GROUND FLOOR), ST. BENEDICT FIRST
CROSS STREET, ERNAKULAM NORTH P.O., KOCHI-18.**

**BY ADV. SRI.S.P.ARAVINDAKSHAN PILLAY
SMT.N.SANTHA
SRI.PETER JOSE CHRISTO**

RESPONDENTS:

- 1. STATE OF KERALA, REPRESENTED BY
THE SECRETARY TO GOVERNMENT, TAXES DEPARTMENT
SECRETARIAT, THIRUVANANTHAPURAM.**
- 2. SECRETARY TO GOVERNMENT, HOME AND
VIGILANCE DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM.**
- 3. ACCOUNTANT GENERAL (A & E), KERALA,
M.G. ROAD, THIRUVANANTHAPURAM-39.**
- 4. EXCISE COMMISSIONER, COMMISSIONERATE
OF EXCISE, VIKAS BHAVAN P.O.,
THIRUVANANTHAPURAM-33.**
- 5. DIRECTOR, VIGILANCE AND ANTI CORRUPTION
BUREAU, THIRUVANANTHAPURAM.**
- 6. SUPERINTENDENT OF POLICE,
VIGILANCE AND ANTI CORRUPTION BUREAU,
SPECIAL CELL, PONOTH ROAD, KALOOR, ERNAKULAM.**

BY GOVERNMENT PLEADER SRI.NANDAKUMAR

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 18/12/2007, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

W.P.(C) NO.5346/2005

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER SUBMITTED BY THE PETITIONER BEFORE THE ACCOUNTANT GENERAL (A&E), KERALA, THIRUVANANTHAPURAM, SECRETARY TO GOVERNMENT, TAXES DEPARTMENT AND EXCISE COMMISSIONER DT. 5.7.04.

EXT.P2:- COPY OF THE LETTER NO.GE 17/B/30270/79 DT. 15.7.04 OF THE ACCOUNTS OFFICER, OFFICE OF THE ACCOUNTANT GENERAL (A&E), KERALA, ADDRESSED TO THE EXCISE COMMISSIONER AND COPIED TO THE PETITIONER.

EXT.P3:- COPY OF THE LETTER NO.XE1 38405/03(2) DT. 23.9.04 ADDRESSED TO THE SUPDT. OF POLICE, VIGILANCE AND ANTI-CORRUPTION BUREAU, SPECIAL CELL, KOCHI AND COPIED TO THE PETITIONER.

EXT.P4:- COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE EXCISE COMMISSIONER DT. 13.12.04.

EXT.P5:- COPY OF THE LETTER NO.XM6-6538/03 DT. 28.1.05 ADDRESSED TO PRINCIPAL SECRETARY TO GOVERNMENT, VIGILANCE DEPARTMENT AND COPIED TO THE PETITIONER.

/TRUE COPY/

P.A. TO JUDGE

tss

V.GIRI, J.

W.P.(C)No.5346 of 2005

Dated this the 18th day of December 2007

JUDGMENT

Petitioner retired from service on 30.4.2004. He is aggrieved by the fact that the retirement benefits due to him have not been disbursed so far.

2. Provisional pension is being paid to the petitioner and commuted value of pension proportionate to the provisional pension has already been disbursed.

3. In the counter affidavit filed by the government, it is contended that there is a vigilance case No.VC 2/97/KNR pending against the petitioner. As a matter of fact there are other accused in the vigilance case which involves the transfer and postings of the Excise Guards in Kannur District. Petitioner was then the Deputy Commissioner of Excise in Northern Region. It seems that there were other vigilance cases charge sheeted before the Vigilance Court, Thiruvananthapuram involving an allegation of acquisition of assets disproportionate to the income under the Prevention of Corruption Act. Apparently, the said proceedings have been dropped. Therefore the only judicial proceeding which is now

pending against the petitioner is VC 2/97/Kannur.

3. It is not the case of the respondents that any liability has been fixed against the petitioner within three years from retirement. In my view, in the circumstances, there is no justification for continuing to withhold the DCRG due to the petitioner.

4. In the result, the writ petition is disposed of directing the first respondent to pass orders disbursing the DCRG due to the petitioner within a period of two months from the date of receipt of a copy of this judgment.

V.GIRI, JUDGE

CSS